



STATE OF CONNECTICUT

# COUNCIL ON ENVIRONMENTAL QUALITY

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## TESTIMONY

DATE: February 22, 2012

PRESENTED TO: Environment Committee  
Connecticut General Assembly

PRESENTED BY: Karl J. Wagener  
Executive Director

SUBJECT: Raised Bill 84, An Act Concerning Outdoor Wood Furnaces

The Council was made aware of the serious problems of smoke from Outdoor Wood-Burning Furnaces (OWFs) through complaints as well as personal observations by Council members.

The Council has recommended a moratorium until such time as DEEP adopts regulations to limit the emissions from OWFs. If a moratorium is not possible, then a warm-weather ban would represent progress and some amount of protection for citizens who live near the problematic furnaces. **Regardless of action on a moratorium or a seasonal ban, action should be taken to correct two aspects of Section 22a-174k of the General Statutes.**

Specifically, Section 22a-174k contains two provisions that we don't think were intended in 2005:

1. The language (in italics below) in subsection (b) appears to eliminate all siting and operational requirements once the USEPA adopts regulations:

*“(b) No person shall, from July 8, 2005, to the effective date of regulations promulgated by the United States Environmental Protection Agency to regulate outdoor wood-burning furnaces, construct, install, establish, modify, operate or use an outdoor wood-burning furnace, unless....”*

If we are reading the statute correctly, once the USEPA adopts regulations, then the 200-foot setback, the chimney height requirement, and even the requirement to operate the furnace in accordance with the manufacturer's instructions all go away. Without knowing the content of future federal regulations, it would be dangerous to risk going backwards into an “anything goes” environment. The USEPA could adopt regulations as early as 2013, so this might be your last chance to fix this. The Council's suggestion is to eliminate this reference to USEPA regulations. If the USEPA adopts good regulations, then future consumers would have to comply with those regulations; if the USEPA fails to adopt good regulations, then the statute remains in effect and is self-explanatory without any need for reference to the USEPA.

2. The existing statute is structured so that the requirements to burn only clean wood and to operate the furnace in accordance with the manufacturer's instructions apply only to post-2005 furnaces. Those operational requirements should apply to all furnaces. I should not be allowed to burn garbage, treated wood or other debris just because I installed my furnace before 2005.

We have appended recommended language that fixes both problems.

The Council asks the Committee to keep in mind two points that sometimes do not get enough attention in the debate:

1. OWFs place an undue resource burden on DEEP and local governments. Last fiscal year, DEEP issued 30 NOVs to owners of OWFs. To put that in perspective, DEEP issued only 16 air pollution NOVs to all other types of energy facilities, including power plants and waste-to-energy plants. DEEP points out in its September 30, 2010 Permitting Assessment Report that the Department is not even well suited to respond to complaints about OWFs. The Connecticut Association of Directors of Health has told the Council that resources are also a problem for local health officials.
2. The fact that OWFs in some circumstances operate without generating complaints or perhaps even excessive pollution is not wholly relevant. Using a car as a contrasting example, the fact that cars can theoretically burn gasoline quite cleanly is not enough: I have to buy a car that meets EPA regulations, I must have the car tested for emissions every two years, and the fuel quality is tightly regulated by the industry and the government. None of this is true for OWFs. In fact, OWFs are unique in being unregulated; all other types of energy products, from wood stoves to power plants, are subject to air pollution regulations, and those regulations have produced very good results. Let's not go backwards.

Thank you for your consideration of the Council's recommendations.

### **Recommended Language**

**Sec. 22a-174k. Outdoor wood-burning furnaces.** (a) For purposes of this section, "outdoor wood-burning furnace" means an accessory structure or appliance designed to be located outside living space ordinarily used for human habitation and designed to transfer or provide heat, via liquid or other means, through the burning of wood or solid waste, for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or jacuzzi water. "Outdoor wood-burning furnace" does not include a fire pit, wood-fired barbecue or chiminea.

(b) No person shall [~~, from July 8, 2005, to the effective date of regulations promulgated by the United States Environmental Protection Agency to regulate outdoor wood-burning furnaces,~~] construct, install, establish, modify, operate or use an outdoor wood-burning furnace, unless (1) the outdoor wood-burning furnace was constructed, installed, established, modified, operated or in use prior to July 8, 2005

and such furnace complies with (C) and (D), below, or (2) the outdoor wood-burning furnace complies with the following:

(A) Installation of the outdoor wood-burning furnace is not less than two hundred feet from the nearest residence not serviced by the outdoor wood-burning furnace;

(B) Installation of the chimney of the outdoor wood-burning furnace is at a height that is more than the height of the roof peaks of the residences that are located within five hundred feet of the outdoor wood-burning furnace, which residences are not serviced by the outdoor wood-burning furnace, provided the chimney height is not more than fifty-five feet;

(C) No other materials are burned in the outdoor wood-burning furnace other than wood that has not been chemically treated; and

(D) Installation and operation of the outdoor wood-burning furnace is in accordance with the manufacturer's written instructions, provided such instructions do not conflict with the provisions of this section.